

## Item 9 attachment:

Legislative Proposal: Drug Endangered Children

Establish guidelines specific to address any person who is using, possessing for sale, transporting for sale or selling drugs in the presence of a child.

### I. Background:

The purpose is to establish criteria and penalties for any person to include parents/legal custodians who use, sell, transfer, possesses for sale or transport for sale any illicit drug in the presence of a child thus creating an environment that endangers the safety and welfare of a child. There are a large number of homes where children are living in an environment where their parents/caregivers and other occupants are using, possessing for sale and distributing narcotic or dangerous drugs. The conditions and circumstances evident in these homes as a result of this activity and associated drug use, especially in the case of methamphetamine creates a dangerous and risk filled environment that often leads to neglect and abuse.

There is increasing concern about the negative impact on children when parents, guardians or other members of the household abuse drugs and engage in illegal drug activity. Currently, Arizona does not have a specific statute that addresses these situations. The statutes could be modified to include language specific to the following; exposing a child to illicit drug use, criminal distribution of drugs and associated organized drug related activity.

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### III. Policy Impact:

The statutes which need revision to include:

Amend ARS 13-3409. Involving, using or exposing minors to drug offenses;  
Classification

A. A person shall not knowingly:

3. Allow a child to be present in any environment or conveyance wherein illegal substances are being used, possessed for sale, manufactured, administered, transferred, offered for sale, transported for sale as defined by sections 13-3404, 13-3404.01, 13-3405 through 13-3408.

Additional Amended Statute: New Statute cross referenced in CPS statutes and related policies

In addition, specific guidelines will need to be approved and implemented within appropriate agencies.

Example:

A charge under this statute would require a response from CPS and initiation of a social investigation shall include a determination of whether there is reasonable evidence that:

- Any member of the child's home environment uses drugs illegally, is dependent on drugs, or needs drug abuse treatment
- The child is exposed regularly to drug use in the home environment
- The distribution or sale of illegal drugs or drug paraphernalia occurs in the child's home environment
- Drug-related activity has contributed to or is likely to contribute to violent conduct within the child's home environment
- The social services shall include:
- Provision of drug treatment to any member of the child's home environment who is determined to be in need of drug treatment
- Measures to facilitate action by the child's family, with the assistance of the Agency and the police, if necessary, to eliminate the child's exposure to drug use or to the distribution or sale of illegal drugs in the home environment

IV. Stakeholders:

Attorney General's Office, Law Enforcement, HIDTA, DEA, County Attorney's Office, Department of Economic Security, Department of Health Services, Department of Education, Administrative Office of the Courts – Probation Services, medical personnel and AZ Alliance for Drug Endangered Children.

Potential Supporters:

Law Enforcement, HIDTA, DEA, Department of Economic Security

Potential Opponents:

Drug abusing parents

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VI. What substance abuse policy, service or budget gap does this address? Please include supportive documentation.

Approximately 23 states address the issue of exposing children to illegal drug activity in their statutes. South Dakota and New Mexico passed legislation creating a criminal child abuse charge for use and distribution of methamphetamine in presence of a child. Nevada passed similar legislation within their criminal code that included the use of all illicit drugs with the exception of making a violation of the statute a class B felony.

VII. How does this fit into long-term policy goals?

In the Governor's Meth Task Force Report: A Plan for Action, Addressing the Methamphetamine Crisis in Arizona the report identifies the need to 1) ensure that all communities and tribal government are provided with the training and technical assistance needed to implement the Drug Endangered Children (DEC) protocols to ensure the safety of all Arizona Children, 2) to develop long term strategies for to address the needs of Drug Endangered Children. This legislative proposal will allow for the expansion and further development of these goals and have a positive impact on the health, safety and well-being of children in Arizona.